

**DISTILLED
SPIRITS
COUNCIL
OF THE
UNITED
STATES**

Testimony submitted by

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Before the Finance, Revenue and Bonding

Committee in support of

Section 41, Section 42 and Section 43 of

S.B. No. 946: AN ACT CONCERNING REVENUE

ITEMS TO IMPLEMENT THE GOVERNOR'S

BUDGET

March 9, 2015



Senator Fonfara, Representative Berger, Members of the Committee:

My name is Jay M. Hibbard, Vice President of Government Relations for the Distilled Spirits Council of the United States (DISCUS), a national trade association representing the world's leading makers and marketers of distilled spirits. Our member companies are:

- Agave Loco Brands – Chicago, IL
- Bacardi U.S.A., Inc – Miami, FL
- Beam Suntory – Deerfield, IL
- Brown-Forman Corporation – Louisville, Ky
- Campari America – San Francisco, CA
- Constellation Brands, Inc. – Victor, NY
- Diageo – Norwalk, CT
- Edrington America – New York, NY
- Luxco, Inc. – St. Louis, MO
- Moet Hennessy USA – New York, NY
- Patrón Spirits Company – Las Vegas, NV
- Pernod Ricard USA – New York, NY
- Prichards' Distillery – Kelso, TN
- Remy Cointreau USA, Inc. – New York, NY
- Sidney Frank Importing Co., Inc. – New Rochelle, NY

I am testifying today in support of Sections 41, 42 and 43 of S.B. 946: An Act Concerning Revenue Items to Implement the Governor's Budget. These sections deal with a continued modernization of Connecticut's beverage alcohol marketplace. The changes set forth in these sections would positively impact the ability for the free market to work as intended by providing greater marketplace competition, increased convenience, lower spirits and wine prices for Connecticut's consumers and significant additional revenue for the state treasury. We applaud Governor Malloy for his leadership on these issues.

Among other things, these changes would eliminate the minimum bottle pricing mark-up and allow retailers to sell our products at a price they determine rather than at a government-mandated or wholesaler established single bottle price. This change would also serve to make Connecticut more competitive with its surrounding states, provide better pricing for consumers of beverage alcohol and increase revenue to the state. Allow me to focus on a few key points.

Minimum pricing laws requiring retailers to sell at a certain artificial minimum price restricts the free market, results in higher consumer prices and interferes with consumer brand selection. Because price restrictions limit the price at which a retailer may sell alcohol, they may result in higher prices than in a true free market system.

As you may be aware, the three most popular spirits product sizes are 750ml, 1 liter and 1.75 liter. Using data from the recent Connecticut Beverage Journal – the bible of alcohol pricing for the state which contains the entire brand selection available in Connecticut, along with the wholesale case price and the single minimum bottle price that we are discussing today, that the difference in price between the case price per bottle and the single bottle price – the price below which no retailer can sell – can be dramatic. For example, the minimum bottle price for a 1 liter bottle of Three Olives Vodka is 22.7% higher than the single bottle case price; the minimum bottle price for a 750 ML bottle of Pinnacle Vodka is 22.8% higher than the single bottle case price, and; the minimum bottle price of a 1.75 liter bottle of Jameson Irish Whiskey is 24.8% higher than the single bottle case price. These are but a few of the examples I could cite. With mark-ups like those, it's easy to see why retailers are so vehemently opposed to any changes to the state mandated price supports which prevent competition in the marketplace.

Proponents of maintaining the current system also attempt to divert the discussion about minimum pricing by talking about excise taxes and "Case One" pricing. Let me briefly address those issues.

First, with regard to taxes, while perhaps not the highest, the excise tax rate in Connecticut is markedly higher than the rate of the surrounding states. This is further compounded with the fact that Massachusetts, the state most often referenced in discussion, does not apply a sales tax to package alcohol sales. However, while the Distilled Spirits Council is 100% supportive of any reduction in the current beverage

alcohol excise tax rate, the fact of the matter is that much of the taxation that is applied to beverage alcohol is beyond the reach of state policymakers. Only by completely eliminating the excise tax would there be any opportunity for a meaningful reduction in shelf price. You would probably agree that in the current budgetary environment that is not likely to happen.

Second, with regard to Case One prices, it may be true that Connecticut's prohibition on quantity case discounts means that the case-one price in Connecticut may be as good as the quantity case price in adjoining states, this has nothing to do with the issue of minimum bottle price. The per-bottle price when bought in cases is meaningless – retailers simply cannot sell it for that price. They must sell no lower than the established single bottle price.

Opponents of eliminating the minimum mark-up scheme told you in 2012 that the state's adoption of Sunday sales would result in the closing of hundreds of stores. They also suggest that Sunday sales did not result in any additional sales, ergo, neither will the elimination of minimum-bottle pricing. We prefer to let the facts speak for themselves: according to the Connecticut Department of Consumer Protection there has been no mass closing of package stores since the adoption of Sunday sales and on the sales front, the Connecticut Department of Revenue Services reported that the adoption of Sunday sales resulted in \$1.3 million in additional excise taxes plus additional sales taxes. Further, DRS reported that sales of distilled spirits, *which can only be purchased in Connecticut package stores*, increased by more than 5%, precisely what we suggested would occur when the change was considered.

I would also like to address the revenue estimate should the General Assembly concur with the Governor's recommendations. We believe the Administration's estimates for new revenue to the state are conservative. I have attached an economic analysis that indicates Connecticut may be able to recover millions of dollars in lost excise and sales taxes with as little as a 7% reduction in the existing shelf prices. If meaningful price competition were to be established in the state, the recovery of lost sales opportunities from surrounding states could amount to additional revenue to the state between \$5.1 million and \$8.1 million in new excise and sales taxes.

It is important to note that no other state in the country has a minimum bottle pricing scheme. Not one! And, many of those states have the same or no license cap or have more stores per capita than Connecticut and a thriving, competitive marketplace.

I would also like to address the proposed expansion of hours of sales contained in these sections. Customer convenience is paramount in today's busy environment. Being able to shop for beverage alcohol products when desired is clearly a key aspect of that convenience factor. Giving licensees the choice of when to open is an important consideration and will provide the state with meaningful additional revenue -- as much as another \$1.0 million for the state's treasury.

In closing, let me say that if restrictions on retail pricing were removed, retailers would sell at whatever price they thought would cover their costs and afford them a reasonable profit and more efficient retailers would be more price competitive than their less efficient neighbors. Those are not my words, but those of University of Connecticut economist, Dr. Stanley McMillen, a member of the Competitive Alcoholic Liquor Pricing Task Force, who went on to say that reducing prices to consumers through increased competition encourages growth in an industry at all levels. We agree with Dr. McMillen.

The changes set forth in Sections 41, 42 and 43 are sensible; they will provide expanded opportunities for Connecticut's businesses, enhance Connecticut's competitiveness, contribute to an improved economy while simultaneously delivering millions of dollars of new revenue to the state treasury. There is no question that these changes will benefit the residents, citizens and voters all across the Nutmeg State.

Many Connecticut news outlets have advocated for the elimination of the minimum pricing scheme including The Hartford Courant, the Norwich Bulletin, and the Norwalk Hour. Their reasoning has been sound and to the point -- these are positive marketplace changes that are long overdue that put consumers first.

We would urge the Committee to positively recommend the changes contemplated by Sections 41, 42 and 43 of the Governor's proposed budget.

Policy Analysis

Minimum Pricing

I. Minimum pricing in Connecticut prevents price competition and causes higher retail prices, reduces retail sales and state tax revenues

The requirement that all Connecticut retailers price their product at or above a posted minimum bottle price in Connecticut eliminates retail price competition in the state. Retailers are unable to take advantage of any discounts, if such discounts are offered by the wholesaler, and eliminates any competition in the marketplace between efficient and inefficient retailers.

Various surveys have shown that the total impact of the minimum bottle price requirement increases retail prices for spirits and wine 8-9% above surrounding states. Some surveys have shown even higher prices with many prices being 12% to 20% higher at the single bottle price than the case-bottle price.

These higher prices reduce retail sales in two ways. First, higher prices cause people to reduce the amount that they purchase. However, in a state like Connecticut where shoppers have easy access to lower priced stores in neighboring states, many Connecticut citizens simply drive to nearby Massachusetts and Rhode Island to shop. Unfortunately, when this happens the state loses not only wine and spirits sales, but sales of other products as well.

Removing the minimum pricing requirement would increase state excise and sales tax revenue by \$5.2 to \$8.1 million annually.

The table below shows what the sales and tax implications would be if the general pricing level fell by between 7 to 11%. A 7% reduction in price would generate nearly \$5.2 million in new sales and excise taxes, while an 11% price reduction would bring in \$8.1 million in new tax revenues.



Estimated New Tax Revenue from Removal of Minimum Bottle Pricing in Connecticut

		Price Decline				
Percent Volume Impact		7%	8%	9%	10%	11%
Spirits		0.0553	0.0632	0.0711	0.079	0.0869
Wine		0.0385	0.044	0.0495	0.055	0.0605
New Volume (Gal.)						
Spirits		370,107	422,979	475,852	528,724	581,596
Wine		547,062	625,213	703,365	781,517	859,668
Retail Value						
Spirits		\$28,468,198	\$ 32,535,084	\$36,601,969	\$ 40,668,855	\$ 44,735,740
Wine		\$15,463,551	\$ 17,672,630	\$19,881,708	\$ 22,090,787	\$ 24,299,866
New Excise Tax						
Spirits		\$ 1,998,577	\$ 2,284,088	\$ 2,569,599	\$ 2,855,110	\$ 3,140,621
Wine		\$ 393,884	\$ 450,154	\$ 506,423	\$ 562,692	\$ 618,961
Total		\$ 2,392,461	\$ 2,734,241	\$ 3,076,021	\$ 3,417,802	\$ 3,759,582
New Sales Tax						
Spirits		\$ 1,807,731	\$ 2,065,978	\$ 2,324,225	\$ 2,582,472	\$ 2,840,719
Wine		\$ 981,935	\$ 1,122,212	\$ 1,262,488	\$ 1,402,765	\$ 1,543,041
Total		\$ 2,789,666	\$ 3,188,190	\$ 3,586,714	\$ 3,985,237	\$ 4,383,761
Total		\$ 5,182,127	\$ 5,922,431	\$ 6,662,735	\$ 7,403,039	\$ 8,143,343

Assumptions:

An average price of \$15.24 per 750 ml of spirits was used along with a wine price of \$5.60 per 750 ml.

Price elasticity of demand for spirits was assumed to be -0.79 and for wine -0.55. Both figures are often cited in economics literature.